

failed to “assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available . . . at least to the extent that such care and services are available to the general population,” as required by 42 U.S.C. § 1396a(a)(30)(A). In other words, they took California to court to make the State obey Federal law and ensure patients have access to the Medicaid benefits required by Congress.

The court of appeals agreed with the plaintiffs’ claims that the California plan was preempted by Federal law. But that wasn’t the end of it. The Supreme Court decided to review the case. Denying review on the underlying issue of whether California’s action is, in fact, preempted by Federal law, the Court has taken up the question whether the parties should be allowed to assert that California’s plan is unconstitutional. The California attorney general has argued that they should not, claiming that private parties cannot have a day in court to raise a preemption claim, regardless whether the State’s action is illegal under Federal law.

This case will be significant for our country, and Constitution, for years to come.

As my colleagues know, it is foundational to our system of government that States must comply with duly enacted laws of this Congress. The supremacy clause, in article VI of the Constitution, makes clear that the Constitution and “the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

Our carefully balanced Federal system, designed by the Framers, would fall apart without the supremacy clause. As James Madison wrote in Federalist No. 44, without that clause we would be left “a system of government founded on an inversion of the fundamental principles of all government; it would have seen the authority of the whole society every where subordinate to the authority of the parts; it would have seen a monster, in which the head was under the direction of the members.” For this reason, the Supreme Court has enforced the supremacy clause since 1796, striking down State measures incompatible with Federal law.

It has previously been widely accepted in the courts of appeals, legal treatises, and filings by the United States—that the American people can go to court to protect themselves from preempted State law.

The Supreme Court has repeatedly allowed big corporations to argue in court that State actions are preempted by Federal laws and regulations. To take one example, in *Chamber of Commerce of the United States v. Brown*,

2008, business interests sued to enjoin enforcement of a California law that prohibited employers in that State from spending State funds to deter union organizing. The Supreme Court held that the National Labor Relations Act, NLRA, preempted the California law. It didn’t tell the corporation that it could not assert this argument in the first place. So too, in *Rowe v. New Hampshire Motor Transport Association*, 2008, a group of transport carrier associations brought suit to argue that a Maine statute regulating tobacco delivery in order to protect minors was preempted by Federal law. Again, the Supreme Court found that the State law was preempted, striking it down without prohibiting the corporate interests from making their argument in court. And in *Watters v. Wachovia Bank*, 2007, the Court allowed a big national bank to argue that Federal law preempted Michigan’s State banking regulations, once again without denying the corporate interest the chance to raise such an argument in court.

Now is not the time to inhibit the supremacy clause and preclude regular Americans from having their Federal rights enforced in court, particularly when that privilege has been respected for corporations.

If the Court does take that step, it will create a legal loophole that invites states to ignore Federal law, and weaken the supremacy clause. It will put Americans at risk, weakening hard-won statutory protections. Most important, it will warp the carefully balanced Federal system that has served us so well through the centuries.

#### HONORING OUR ARMED FORCES

SPECIALIST DONALD L. NICHOLS

Mr. GRASSLEY. Mr. President, it is with deep regret that I must inform the Senate about the passing of a soldier from my home State, specialist Donald L. Nichols of Shell Rock, IA. He was 21 years old. Specialist Nichols enlisted in the Iowa National Guard in March of 2008 and was assigned to the Iowa Army National Guard’s Headquarters and Headquarters Company, 1st Battalion, 133rd Infantry, 2nd Brigade Combat team, 34th Infantry Division, based in Waterloo, IA. Specialist Nichols was killed by an improvised explosive device that struck the armored vehicle while he was patrolling in the Mehtar Lam District, Laghman Province, Afghanistan.

Specialist Nichols is survived by his mother Becky Poock; his father Jeff Nichols; his fiancée Chelsey Bliss; two brothers, and many other family and friends.

The family and friends of Specialist Nichols remember him as a dedicated soldier who truly loved serving his country. His fellow soldiers remember him as a “studious soldier who took his duty with zeal.” Donald had decided that he wanted to join the Armed Forces even before he graduated high school. He showed a dedication to serv-

ice that is typical of all of the men and women fighting for our Nation but one that is so rare in the common man. The memory of his sense of humor and his love for family, friends, and country will remain constantly with his loved ones.

SPC Donald L. Nichols will be missed by all that were privileged to know him and my thoughts and prayers go out to his loved ones in this incredibly difficult time.

#### ASIAN PACIFIC AMERICAN HERITAGE MONTH

Mrs. FEINSTEIN. Mr. President, since 1978 we have set aside the month of May to honor Americans who are of Asian and Pacific Islander descent. Today I am pleased to join the celebration of Asian Pacific American Heritage Month and the many accomplishments and contributions of such an inspiring, spirited, and industrious group of people.

Efforts to establish an Asian Pacific American Heritage Month first took shape in 1977 when U.S. Representatives Frank Horton and Norman Y. Mineta introduced a resolution calling on the President to declare a weeklong commemoration. Senators DANIEL INOUE and Spark Matsunaga followed suit in the Senate. Both resolutions were ultimately passed, and President Carter in 1978 officially designated a weeklong celebration to honor the first Japanese immigrants to the United States and the Chinese laborers who completed the Transcontinental Railroad.

In 1990, President George H.W. Bush extended the event to a month-long celebration, and in 1992 the designation of May as Asian Pacific American Heritage Month was signed into law.

More than 17 million Asian Pacific Americans live in the United States today, with more than 5 million living in California. Together, these Americans represent more than 30 countries and ethnic groups and enhance the diversity that is a hallmark of our Nation. Asian Pacific Americans enrich California through their famous and iconic communities including Chinatown in San Francisco, Filipino Town and Little Tokyo in Los Angeles, Little Cambodia in Long Beach, and Little Saigon in Westminster.

Asian Pacific Americans have also left a large imprint on the economy of the United States, although in this time of economic challenge, it is important that we offer as much support as possible to keep those businesses thriving. This is why I support the White House Initiative on Asian Americans and Pacific Islanders, which is focused on increasing Asian Pacific American participation in areas such as commerce, labor and employment, and economic and community development. I am also a cosponsor of legislation that will help create small businesses and improve small business owners’ access to capital.

This year's theme, "Leadership to Meet the Challenge of a Changing World," is especially fitting given the many challenges we face today. The leadership of many Asian Pacific Americans who have dedicated their lives to public service is especially notable. These trailblazers have been a strong voice for the community and have empowered Asian Pacific Americans to break barriers and pursue the American dream.

Among these respected Americans are my esteemed colleagues in Congress, Senators DANIEL INOUE and DANIEL AKAKA, and nine Members of the U.S. House of Representatives, including California Representatives JUDY CHU, DORIS MATSUI, and MIKE HONDA. In the executive branch, we are lucky to have the services of Energy Secretary Steven Chu, Commerce Secretary Gary Locke, and Veterans Affairs Secretary Eric Shinseki.

In particular, I would like to recognize Representative CHU on her new position as chairman of the Congressional Asian Pacific American Caucus. I would also like to congratulate Secretary Locke on his recent nomination by President Obama to serve as the next U.S. Ambassador to the People's Republic of China. These individuals are all leaders in the Asian Pacific American community, and their service inspires future generations to follow in their footsteps.

In addition to their cultures, entrepreneurial skills and dedication to public service, Asian Pacific Americans have also made great sacrifices to ensure our nation remains strong and secure. There are thousands of Asian Pacific Americans serving overseas in our Armed Forces and here at home in our law enforcement agencies. These admirable citizens risk their lives every day to protect their communities. They deserve our thanks.

I also want to praise the leadership and hard work of the Asian Pacific American legal community. Since the beginning of 2009, we have made significant progress in our work to diversify Federal courts. Six new Asian Pacific American judges have been confirmed to the Federal bench. These include U.S. District Judges Jacqueline Nguyen and Dolly Gee in Los Angeles and U.S. District Judge Lucy Koh in San Jose. Two highly qualified nominees still await votes—Professor Goodwin Liu, nominated for the U.S. Court of Appeals for the Ninth Circuit, and U.S. Magistrate Judge Edward Chen, nominated for the U.S. District Court in San Francisco. I will continue to do what I can to further diversify the judiciary and ensure that qualified Asian Pacific American judges are nominated and confirmed to the Federal bench.

Unfortunately, this month also brings with it the reminder that my good friend and political strategist Mr. Kam Kuwata is no longer with us. Kam was well known and well respected by those in California politics and journalism. He tirelessly pursued civil

rights and achieved remarkable success in campaigns and State initiatives. He carried with him many of the difficulties Asian Pacific Americans have faced, as his mother's family was interned during World War II. But he also embodied the many accomplishments that Asian Pacific Americans have achieved. Kam was truly one of the most intelligent and sharp people I have ever met. I would like to extend my heartfelt and deepest condolences to his family and friends. He will be dearly missed by all of us whose lives he touched.

Today, it is my honor to acknowledge the remarkable strength, character, and accomplishments of Asian Pacific Americans during Asian Pacific American Heritage Month.

#### BICENTENNIAL CELEBRATION OF THE NATIONAL ROAD

Mr. CARDIN. Mr. President, I rise today to recognize the importance of investment in our national infrastructure on the occasion of the bicentennial anniversary of the National Road.

On May 7, 2011, Americans will gather in Cumberland, MD, to celebrate the bicentennial of the groundbreaking for the construction of this first federally financed road. Congress approved The National Road in 1806 and construction was completed in 1818, connecting Cumberland, MD, with Wheeling, WV, located on the Ohio River. This road would connect East to West, allowing for economic growth and opportunity as a young nation sought to unite a diverse country and facilitate the flow of people, goods, services, information, and Federal authority in new territory.

The National Road's completion created a flow of goods and people to and from the Port of Baltimore, along privately developed turnpikes to Cumberland, and across the mountains to the Ohio River Valley. The road was extended to Vandalia, IL, in the early 1840s. For more than a century, The National Road was this Nation's only federally funded interstate highway, making its importance to commercial and political enterprise unparalleled.

By the 1850s, the lure of trade and migration to the West led to the development of the "horseless carriage," running parallel to the road, connecting the Port of Baltimore to the West right through Cumberland, MD, over the mountains and westward. While The National Road remained important, trains began to transport the bulk of goods and people travelling West. In the 1900s, it was the invention of the automobile that brought The National Road back to popularity as travelers and tourists explored America and the natural beauty of western Maryland and truckers transported goods along with the trains.

I would encourage my colleagues and their constituents to take a journey on The National Road. The National Road has been designated a Maryland Scenic Byway and is marked by signs and his-

torical markers, connecting heritage areas, arts and entertainment districts, and historic landscapes and structures. A National Register of Historic Places Travel Itinerary can be found at [www.crnp.gov/nr](http://www.crnp.gov/nr).

I ask my colleagues to join me in celebrating this national achievement, which reminds us of the importance of supporting infrastructure investments that promote trade and commerce, and in thanking the people of Cumberland, MD, for celebrating this national achievement.

#### TRIBUTE TO PETER FISCHER

Mr. CRAPO. Mr. President, I rise today to recognize and honor Peter Fischer, who is retiring from Senate service. Peter has been an essential member of my staff for more than a decade, and he currently serves as chief of staff for my Washington, DC, office. I cannot thank him enough for his dedicated counsel and friendship. Time and time again, he has provided helpful insight and contagious optimism that have been instrumental in overcoming even the most difficult challenges.

I have been extremely blessed to have Peter as part of my team through multiple, valuable roles. He joined my 1998 Senate campaign as campaign finance director following his service as an economic development specialist with Idaho's department of commerce and industry. Then, in January of 1999, I was fortunate to have Peter join my congressional staff as State director for economic development. He utilized his economic development experience and profound understanding of the needs of Idaho communities to help communities navigate the Federal bureaucracy and identify partnership opportunities. He continued this outstanding advocacy after he moved to Washington, DC, nearly 2 years later, to become legislative director prior to becoming my Washington, DC, chief of staff.

Peter has a remarkable "can-do" spirit and resourcefulness, and he has contributed greatly to advancing countless legislative and policy priorities for Idaho. For example, his commitment to the Owyhee Initiative played a major role in the successful passage of the authorizing legislation and continued implementation efforts. As a hunter, fisher and sportsman, Peter also provided valuable perspective in enactment of electronic duck stamp legislation. He has also been very active in representing me in countless ways on Capitol Hill. For example, he is a senior Stennis fellow, serves on the Steering Committee for the Bipartisan Chiefs of Staff organization, is the Republican chair of the bipartisan Foreign Policy Study Group, has attended numerous chiefs of staff retreats and manages my Washington campaign activities during his free time.

A 1971 graduate of the University of California—Santa Barbara with a degree in history, Peter has a fascinating